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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,396	12/28/2001	Hiroshi Chikuma	040679-1425	2090

22428 7590 09/24/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

ROSENBAUM, IRENE CUDÁ

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,396

Applicant(s)

CHIKUMA ET AL.

Examiner

Irene Cuda-Rosenbaum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-3 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2 and 7 there is no proper antecedent basis for "the header positioning member". Correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (hereinafter referred to as AAPA) in view of either Mantegazza et al (5,954,125) or Pierce (5,966,809).

AAPA teaches the method essentially as claimed but lacks a teaching of using a set base to hold the tubes. However, both Mantegazza et al ( see column 3, lines 7-12, and the related figure) and Pierce ( column 7, lines 13-15, and figure 1) teach a base to hold the tubes during the process. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method as taught by AAPA by

using a set base as claimed, since to do so is old and well known in the art for the purpose of maintaining the correct positioning of the tubes during manufacture.

Claims 5-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of either Mantegazza et al or Pierce as applied to claims 1 and 4 above, and further in view of Makino et al (6,095,239).

AAPA in view of either Mantegazza or Pierce teach the method essentially as claimed but lack a teaching of manufacturing the second heat exchanger in conjunction with the first heat exchanger as claimed. Makino teach that it is old and well known to manufacture the two heat exchanger in combination as claimed for the purpose of achieving better heat exchange. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method as taught by AAPA in view of either Mantegazza or Pierce by making a combination heat exchangerr as claimed, since to do so is old and well known in the art for the purpose of achieving better heat exchange, as taught by Makino et al.

### ***Allowable Subject Matter***

Claim2-3 and 7-8 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Cuda-Rosenbaum whose telephone number is 703-308-1792. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 308-1148. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1148.

ICR

  
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